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14 CHUNGHWA PICTURE TUBES (MALAYSIA)
15 SDN. BHD.

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17 UNITED STATES DISTRICT COURT
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION

20 IN RE: CATHODE RAY TUBE (CRT)
21 ANTITRUST LITIGATION

22 This Document Relates To:

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24 *ViewSonic Corporation v. Chunghwa Picture*
25 *Tubes, Ltd., et al.*, No. 3:14-cv-02510-SC

26 Master File No. 3:07-CV-5944 SC
27 MDL No. 1917

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**DECLARATION OF AUSTIN V.
SCHWING IN SUPPORT OF
DEFENDANT CHUNGHWA PICTURE
TUBES, LTD. AND CHUNGHWA
PICTURE TUBES (MALAYSIA) SDN.
BHD.'S MOTION TO SHORTEN TIME
FOR MOTION TO EXCLUDE LATE-
DISCLOSED EVIDENCE UNDER
FEDERAL RULE OF CIVIL PROCEDURE
37(c)(1)**

1 I, Austin V. Schwing, hereby declare as follows:

2 1. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for
3 Chunghwa Picture Tubes, Ltd. and Chunghwa Picture Tubes (Malaysia) Sdn. Bhd.'s (collectively
4 "Chunghwa") in the above-referenced action.

5 2. I submit this declaration in support of Chunghwa's Motion to Shorten Time For
6 Motion to Exclude Late-Disclosed Evidence Under Federal Rule of Civil Procedure 37(c)(1)
7 ("Motion to Shorten Time"). Unless otherwise indicated, I have personal knowledge of the matters
8 set forth in this declaration and could and would testify to the same if called as a witness in this
9 matter.

10 3. On January 23, 2015, Chunghwa filed the Motion to Exclude Late-Disclosed Evidence
11 Under Federal Rule of Civil Procedure 37(c)(1) ("Motion to Exclude") requesting that the Court
12 strike late-disclosed evidence attached to ViewSonic's opposition to Chunghwa's Motion for Partial
13 Summary Judgment for Lack of Standing as to ViewSonic Corporation ("Summary Judgment
14 Motion"). Chunghwa's Motion to Exclude under Federal Rule of Civil Procedure 37(c)(1) is based
15 on ViewSonic Corporation's ("ViewSonic") failure to identify documents and a witness in response
16 to Chunghwa's discovery requests to which the information was directly responsive and to timely
17 supplement discovery requests as required by Federal Rule of Civil Procedure 26(e)(1)(A).

18 4. Chunghwa has met and conferred with ViewSonic regarding the issues underlying the
19 Motion to Exclude in compliance with Local Rule 37-1(a). On January 15, 2015, Chunghwa's
20 counsel e-mailed a letter to ViewSonic's counsel informing ViewSonic of its intent to file a motion to
21 exclude and the basis for the motion.

22 5. On January 20, 2015, ViewSonic's counsel responded that it disagreed with
23 Chunghwa's position regarding the evidence. ViewSonic declined to withdraw the evidence from the
24 summary judgment record.

25 6. On January 23, 2015, Chunghwa's counsel e-mailed ViewSonic's counsel requesting
26 that the parties stipulate to have the Motion to Exclude heard simultaneously with the Summary
27 Judgment Motion on February 6, 2015. Chunghwa proposed that ViewSonic file its opposition to the
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1 Motion to Exclude by January 29, 2015, and Chunghwa file its reply by February 3, 2015.

2 ViewSonic's counsel responded that it would not agree to stipulate to a shortened schedule.

3 7. Chunghwa subsequently filed the Motion to Shorten Time, requesting that the Court
4 shorten the time for hearing on Chunghwa's Motion to Exclude to allow the motion to be heard at the
5 Summary Judgment Motion hearing on February 6, 2015. In the Motion to Shorten Time, Chunghwa
6 also proposes that ViewSonic be ordered to file its opposition to the Motion to Exclude by January
7 29, 2015, and Chunghwa be ordered to file its reply by February 3, 2015.

8 8. The requested time modification will not affect any other outstanding scheduled
9 deadlines in this case.

10 9. Substantial harm and prejudice would result if the Court considered, and potentially
11 ruled, on the Motion for Summary Judgment before hearing the Motion to Exclude ViewSonic's late-
12 disclosed evidence submitted with its opposition. This case is set to begin trial on March 9, 2015.

13 10. Pursuant to Civil Local Rule 6-3(a)(5), the following table discloses previous time
14 modifications made in this case affecting Chunghwa, whether by stipulation or Court Order:

Date	Dkt. No.	Description
7/28/2014	2711	Order establishing discovery and pre-trial schedule between ViewSonic and defendants.

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20 I declare under penalty of perjury that the foregoing is true and correct. Executed this 23rd
21 day of January 2015, at San Francisco, California.

22 By: _____
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24 Austin V. Schwing

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